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**ELECTION ORDINANCE
OF THE
HOOPA VALLEY TRIBE**

As Amended December 10, 2014

ELECTION ORDINANCE OF THE
HOOPA VALLEY TRIBE
AS AMENDED September 10, 2014

SECTION 1. AUTHORITY

This Election Ordinance is established by the Election Board of the Hoopa Valley Tribe under authority delegated to it by Article VI, Sections 3 and 4 of the Constitution and Bylaws of the Hoopa Valley Tribe Constitution (as amended) in California, which reads as follows:

ARTICLE VI, SECTION 3. ELECTION BOARD

The membership shall elect an election board composed of five members which shall enact an ordinance as set forth in Section 4. The terms shall expire as follows: one in one year, two in two years, two in three years and their successor shall serve three year terms.

- (a) The membership shall also elect five "alternate" election board members. The terms of office, qualifications and election process shall be the same as for the election board, except the alternate board shall be elected from among candidates running for seats as alternate election board members. In the first election for alternate election board members, the terms shall expire as follows: one in one year, two in two years, two in three years and their successors shall serve three year terms. In the first election candidate terms shall correspond to votes, with the candidates receiving the highest number of votes serving the longest terms and the candidate receiving the lowest number of votes serving a one year term. Vacancies on the election board shall be filled from among elected alternates with the candidates receiving the highest number of votes serving as the first alternate and the candidate receiving the lowest number of votes serving as the fifth alternate.
- (b) The election board shall be responsible for screening candidates calling and conducting elections, settling any election disputes, certifying election results and installing successful candidates. The election board chairman shall administer oaths of office. The board shall establish its own rules of procedure. Members of the board shall receive fair payment to be set by the Council for the performance of their duties. The board may levy and collect filing fees from candidates to help defray costs of elections. It may also require that a fee accompany protests of elections for Tribal Council members to help defray any costs of recounts or such actions as the protest may require. Such fee may be refunded if the aggrieved party's protest is sustained. Members of the board shall be subject to the recall provisions of Article VII, Section 3.

SECTION 4. ELECTION ORDINANCE

'The Election Board shall enact an Ordinance governing elections and setting forth the procedures to be followed in conducting each of the various types of elections. Such Ordinance shall include provisions for secret ballots, absentee voting, registration of voters, screening of candidates, and settling election disputes. A separate section of the Ordinance shall spell out the procedure and format to be used whenever it is necessary to submit petitions for any purpose to the Hoopa Valley Tribal Council or any office or Board of the Tribe. Whenever practical such Ordinance shall include provisions of the State or local election regulations. The Ordinance shall also include provisions for run-off elections in case of tie votes.' No amendment may affect an election that is in progress when that amendment is adopted. All amendments to the Election Ordinance shall be made subject to the procedures set forth in the Legislative Procedures Act, with the Election Board substituted for the Tribal Council as the approving authority.

SECTION 2. PURPOSE

The intent and purpose of this Ordinance is to establish procedures for fair elections and to ensure the secrecy and sanctity of the ballot. The regulations and procedures contained in this Ordinance shall be administered in such a way as to accomplish this purpose and intent. In cases of disputes as to compliance with these regulations, substantial, rather than complete compliance with these regulations may be deemed adequate.

SECTION 3. DEFINITIONS

PRIMARY ELECTION: The election preceding each General election of Council Members, Tribal Chairman, and Election Board Members.

GENERAL ELECTION: The election of Council Members, Tribal Chairman, and Election Board Members held in June of each year.

MAJORITY: More than half of the votes cast for a particular office, measure, etc.

TRIBAL COUNCIL: The Hoopa Valley Tribal Council, is an eight member governing body established by Article V, Section 3, of the Constitution.

CONSTITUTION: The Constitution and Bylaws of the Hoopa Valley Tribe in California.

POLLING PLACE: Location designated by the Election Board where balloting takes place.

REGISTRAR: A person designated by the Election Board to accept registration of voters.

ELECTION NOTICE: The official notice that an election will be held on a specific date established by the Election Board.

DATES OF EVENTS: In determining the date of any event pertaining to elections which is fixed by this Ordinance as occurring a certain number of days before or after an election, the day of election shall not be counted, but the day of any other event shall be counted. When the date of the event shall fall on a Saturday, Sunday, or a holiday, the event shall take place on the next working day. When such changes are necessary, the entire sequence of events shall be adjusted so as to maintain the required number of days between each event.

WORKING DAY: A working day is every day that is not a Saturday, Sunday or holiday that is recognized by the government of the Hoopa Valley Tribe.

POLL OFFICIAL: An Election Board member or any additional appointee to the Election Board serving at the polls on election day.

QUALIFIED VOTER: Any member of the Hoopa Valley Tribe who will be at least eighteen (18) years of age on election day and who is duly registered.

DULY REGISTERED: To be duly registered a person must meet the following qualifications:

1. Be at least eighteen (18) years of age on election day.
2. Complete the necessary form to effect registration as required by Section 5, of this Ordinance.

REGISTERED VOTER: One who is qualified to vote by reason of meeting all the requirements listed above under 'duly registered'.

NON-RESIDENT VOTER: A qualified voter who lives outside the boundaries of the Hoopa Valley Reservation and who has been so designated by the Election Board.

SUBMISSION TO THE ELECTION BOARD: All material which this Ordinance provides is to be submitted to the Election Board, and shall be either delivered in person to the clerk of the Election Board as required by Section 7-a 2, or be mailed to the following address:

Hoopa Valley Tribal Election Board
Post Office Box 1327
Hoopa, CA 95546

SECTION 4. ELECTION OFFICIALS.

4-a. Election Official Duties

The Election Board, shall, pursuant to Article VI, Sections 3 and 4 of the Tribal Constitution and Bylaws, have overall responsibility for the conduct of all elections. These duties shall include, but not be limited to, the following:

(1) Publication of Election Notice at least 180 days before the date of any Primary Election of members of the Tribal Council, or at least 30 days before the date of all elections of issues, shall be made by the Secretary of the Election Board. All notices shall contain the date, time, place and purpose of each election and shall be posted at the polling places, and at various other public places throughout the area served by the established polling place. Each local newspaper that provides useful coverage of Indian communities shall be furnished a copy of the notice for carrying as a public service announcement.

(2) Selection of Election Board Officials. The members of the Election Board shall appoint a Chairman, Vice-Chairman and Secretary from within their membership and, if necessary, such additional appointees from the Tribal membership as may be required for conducting the election and registration of voters. If any member of the immediate family (spouse, son, daughter, mother, father, sister, brother, grandmother, grandfather, aunt, uncle, niece, or nephew) of an Election Board member files as a candidate for office, the Election Board member shall automatically be replaced by an alternate until such election is concluded. Such Board member will not participate in the approval of their relative's candidacy.

Alternates shall meet the same requirements as regular board members in order to be eligible to serve. The term of appointment for an alternate shall be for the duration of the election in which he is serving.

(3) Election Process Review. At the first Election Board meeting following the completion of each General Election the Board shall review the election process in its entirety with the newly elected board members.

(4) Election Supplies. At the direction of the Election Board the Secretary shall arrange for all election supplies including the printing of all ballots and for the printing or other reproduction of tally arrange for the delivery of the same to the Chairman of the Election Board before the opening of the Polls.

(5) Ruling on Qualification of Candidates. The Election Board, upon review of the findings of the bonding company as to a prospective candidate's bondability and the findings of the Board's attorney as to a prospective candidate's criminal record, shall have the final authority to rule upon the qualifications of the candidates as prescribed in Article VI, Sections 6 and 7 of the Constitution and Bylaws and Section 7-a 3 of this Ordinance.

(6) Ruling on Qualifications of Voters. The Election Board shall have the final authority to determine any claim as the right of any person, listed or not listed on the 'Registrar of Voters' to vote as prescribed in this Ordinance.

4-b. Internal Procedure of Election Board.

(1) Quorum. A quorum of the Election Board shall consist of three (3) members.

(2) Meetings. Meetings may be called at any time by the Chairman or by request of a majority of the Board to him. In the event the Chairman fails to call a meeting as requested, any three (3) members of the Board may convene upon proper notification to the other Board members.

(3) Proper Notification. Proper notification shall be at least four (4) days preceding the meeting by mail or two (2) days preceding the meeting by telephone. The Chairman may waive the notification period as he or she may from time to time determine necessary, as long as a bonafide effort is made to notify each member.

(4) Robert's Rules of Order. Pursuant to the Legislative Procedures Act, made applicable to the Election Board by constitutional amendment in June 2012, the Board shall follow the procedures set forth in Robert's Rules of Order to the extent that those rules do not conflict with specific procedures set forth in this ordinance.

4-c. Standards for Final Actions and Decisions.

As described in Section 24, the Tribal Court has jurisdiction to review any final Election Board action or decision (or an unlawful withholding or unreasonable delay of a final action or decision). This review may be based on either of two standards-the "arbitrary and capricious" standard (also known as the "abuse of discretion" standard), and the "substantial evidence" standard. Because it will not always be foreseeable which standard the Tribal Court may apply to a particular Board action or decision, both standards should normally be met. In addition, as described in Section 19, the information relied on by the Board in any final action or decision must be retained, such that if a Board action is challenged in Tribal Court, the Board will have sufficient evidence to prove that the below standards were satisfied.

Both the "arbitrary and capricious" standard and the "substantial evidence" standard will be met when the Board, in order to ensure that its action or decision has a reasonable basis in fact, does all the following:

- (1) Considers all relevant factors, including reasonable alternatives proposed by the Board, other tribal departments, or the public;
- (2) Does not make a clear error in judgement;
- (3) Applies the relevant law correctly; and;
- (4) Considers the entire record and determines that, as a whole, the evidence contained therein supports the Board's decision or action more than opposes it.

SECTION 5. VOTER REGISTRATION AND VOTING LISTS

5-a. Registrars.

The Election Board shall designate official registrars. The polling place shall be designated by the Election Board in the election notice. The Secretary of the Election Board shall serve as registrar for absentee voters. Each registrar of voters shall have custody and responsibility for registration bonds, records, and materials assigned to him.

5-b. Registration Records.

The official register shall be contained in binders designated as "Register of Voters" arranged alphabetically and designed to record all necessary information. A duplicate set of current registration records shall be maintained by the secretary of the Election Board as a "Central File".

5-c. How to Register as a Voter.

Any member of the Hoopa Tribe, otherwise qualified to vote, may register to vote either in person, or by mail with the designated registrar. Those who desire to vote by absentee ballot by reason of living outside the boundaries of the Hoopa Valley Reservation due to being physically unable to go to the polls, regardless of place of residence, shall register with the Election Board secretary.

5-d. Voter Registration

Upon reaching their 18th birthday a tribal member may register through the Election Board office on a one time basis to become eligible to vote in all succeeding tribal elections. If a tribal member's 18th birthday falls within the 37-day time period prior to any election during which registration is closed, they must wait to register until the day after the election when registration is re-opened. If a tribal member was previously canceled they must re-register to be eligible to vote in all succeeding tribal elections.

5-e. Cancellation of Registration

Cause for cancellation of registration shall be the death of the registered voter or a notarized request from a registered voter that his registration be canceled. Renewal of registration is allowed.

5-f. Registration Period.

Any member of the Tribe, other wise qualified to vote, may register at any time up to the closing of registration which is thirty-seven (37) days prior to any elections. Registration shall re-open on the day following the election.

5-g. Preparation and Posting List of Registered Voters.

Upon the close of registration the Secretary of the Election Board shall prepare a list of all registered voters. At least ten (10) days prior to each election, the Secretary of the Election Board shall post said list at the polling place. A current voting list shall be furnished to the Tribal Council before each election. Upon request the voter registration list shall be made available to any Hoopa Tribal Member.

SECTION 6. PRIMARY AND GENERAL ELECTION DAYS

A Primary Election shall be held on the third Tuesday of March each year. The General Election shall be held on the third Tuesday of June of each year. In the event a holiday falls on an election date, or for some other reason it is not advisable to hold an election at the specified time, the Election Board shall designate an alternate time to conduct the canceled election. Such date for the Primary Election shall be no later than the last day of March, and such date for the General Election shall be no later than the last day of June.

SECTION 7. TYPES OF ELECTIONS

Primary Election

General Election

Filling Vacancies (other than regularly occurring vacancies on the Tribal Council)

Referendum/Initiative

Initiative

Recall

Special Run-Off

Constitutional Amendment

Election Board Members and Alternate Members

The Hoopa Tribal Election Board prefers to have only one election of any type under way at any given time. However, should the Council or any individual wish to properly submit a measure for a vote of the people, it has been established by the Hoopa Tribal Election Board that:

Any issue involving an election process which mandates that an election shall be called and conducted within forty-five (45) days should be officially filed in accordance with Section 8-b of the Hoopa Tribal Election Ordinance. Submission of issues in the aforementioned manner will allow the Hoopa Tribal Election Board to place such issues on the General Election ballot which generally has the greatest number of members voting and will also be more cost effective for the Tribe.

The Election Board is a neutral body who shall neither support nor oppose any candidate, campaign or issue to be presented to the voters. In order to avoid any appearance of bias, no sample ballots, absentee voter requests, or other communications to voters by any candidate, campaign supporting or opposing any issue to be presented to the voters. Communications to voters may advise them to contact the Election Board directly for forms or materials, and all voters are welcome to obtain the Election Board's forms or materials by contacting the Election Board directly.

7-a. Election of Tribal Council Members.

1) Qualification for Tribal Council Candidates

Any member of the tribe may announce his or her candidacy for a specific position on the Tribal Council provided the following qualifications are met:

- a) Must be at least twenty-one (21) years of age by the date of the election in which he desires to compete.
- b) Must physically reside while in office within the area shown by a circle drawn on a map representing a one hundred (100) mile radius from the main tribal administrative office building. Failure to maintain a residence within this area shall be grounds for removal from office.
- c) Must not have been convicted of a felony or misdemeanor involving moral turpitude. For the purpose of this Ordinance, "moral turpitude" shall mean conduct involving deceit, dishonesty, evil intent, baseness, villainy, depravity, intentional or reckless infliction of serious harm to persons, or acts which are dangerously contrary or acts shall include, but shall not be limited to, theft, fraud, embezzlement, blackmail, extortion, forgery, bribery, murder, sexual assault, and child abuse. Provided, that persons who have completed their sentence for such conviction at least (10) years prior to the date of election in which they intend to run for office may file as candidates.

- d) Must not have been found liable for a civil judgment issued by any court of competent jurisdiction for conduct, while an officer or employee of the Hoopa Valley Tribe, involving fraud, misappropriation, unauthorized use, theft, or conversion of tribal funds, assets, or property. Provided, that persons who have fully satisfied any such judgment at least ten (10) years prior to the date of the election in which they intend to run for office, may file as candidates.
- e) Must be bondable under the Tribe's current insurance in accordance with Section 7-a(3)(a) of this Ordinance.

Each prospective candidate must disclose to the Election Board any personal, financial, and business interests that may create a conflict if that person is elected. Once elected each council member shall report to the Tribal Council and Election Board any situation that may create a conflict while in office.

All candidates are to be responsible to have campaign signs removed within 10 days after all types of elections.

(2) Decisions on Qualifications

It is the Election Board's duty to certify candidates for elected Tribal offices. It is also the Board's duty to make inquiries into areas of known conflict if not disclosed by a prospective candidate. A candidate's failure to disclose known areas of potential conflict may result in a finding of disqualification by the Board. The Board has no authority to disqualify a candidate based on a potential conflict of interest which is disclosed.

A disqualified candidate may request a hearing before the Board to contest the Board's decision by filing a written request with the Board's secretary at the Election Board Office within three calendar (3) days of notice of the disqualification. Notice of disqualification is deemed given when written notice thereof, addressed to the candidate, is deposited in the U.S. mail, certified postage prepaid. At the time nomination papers are filed, candidates shall be informed of this procedure for notice, of the date the Election Board shall meet to qualify candidates and of the candidate's opportunity to contact Election Board staff in person or by telephone during regular business hours on the days following the Board's meeting to qualify candidates in order to determine the Board's ruling on their candidacy. A hearing before the Board shall be held within two (2) days of the filing of a request for a hearing, after which the Board shall render a final decision within two (2) days. The hearing shall be recorded by video camera in a manner which will accurately capture the comments of each speaker, as this hearing will become part of the record upon which the Board bases its decision.

(3) Nomination Procedure

Candidates shall file, in person, for a specific position by submitting to the Election Board a nominating petition pursuant to this section signed by not less than five (5) registered voters. A voter may sign only one petition. Petitions for nomination shall be filed with a person, and at a place, on dates and within hours as designated by the Election Board. Such information shall be typewritten and furnished to each member when they receive their candidacy papers. Deadline for filing nomination petitions shall be 5:00 p.m. on the 150th day immediately preceding the election in which the candidate intends to compete. All prospective candidates must receive and file candidacy nomination papers personally. Candidacy nomination papers submitted in any other manner will be ruled invalid.

(4) Procedure for Review and Determination of Candidacy Qualifications

The Election Board shall verify that a candidate is bondable by taking a bond application from those candidates that must be bondable as a qualification for office at the time they file candidacy papers and forwarding the application to any insurance company for a determination as to a prospective candidate's bondability.

The Election Board shall determine whether a candidate has been convicted of any crime that would disqualify him or her from office by retaining an attorney with funds budgeted for their use by the Tribal Council to investigate this aspect of qualification. The attorney shall review criminal history records obtained by the Election Board and make a timely response as to whether his/her findings are positive or negative as to a prospective candidate's criminal history, but if there is insufficient information for the attorney to be able to make a conclusive determination, the attorney shall so notify the Board prior to their preliminary review of candidate qualifications.

The Election Board shall meet at 6:00 p.m. on the 112th day immediately preceding the pending election to make a preliminary review of the findings of the attorney and bonding company, and of the disclosure statements completed by the candidates. If it appears the candidate has failed to make a necessary disclosure or the attorney has advised the Board that the candidate may not qualify based on the candidate's criminal history but there is insufficient information for the attorney to be able to make a conclusive determination, then the Board shall cause a letter to be sent to the candidate informing the candidate that it appears that there may be a basis for disqualification and notifying the candidate to submit further information in support of his/her candidacy prior to close of business on the date set for final qualification of candidates.

i. The Election Board shall meet at 6:00 p.m. on the 105th day immediately preceding the pending election to make a final review the findings of the attorney and bonding company, any disclosure statements completed by candidates, and any additional relevant information. If, in this meeting, the Election Board determines that a person is not qualified to become a candidate, the individual affected shall immediately be notified certified mail. Such letter will give reasons for disqualification. Immediately after completion of final determination of candidacy qualifications, including any hearings pursuant to Section 24, the Election Board shall act to approve the sample ballot for the impending election. Said ballot shall contain all approved candidates and measures to be voted on in the impending election.

(5) Posting Lists of Qualified Candidates and Mailing of Sample Ballots

Upon completion of review and determination of candidacy qualifications, it shall be the duty of the Election Board to post in public places on the reservation, the names of all candidates who have met qualifications and have been approved for the position of which they have filed. Such lists shall be posted at least forty (40) days prior to the pending election.

Sample ballots will be mailed to all registered voters. The Election Board shall attach to the sample ballots brief resumes listing the educational and business background of candidates when such information is available. Such resumes shall be limited to one 8 1/2" x 11" typed page which must be provided by the candidate.

7-b. Filling Vacancies on the Tribal Council (other than regularly occurring vacancies).

Pursuant to Article V, Section 3 and Article VII, Section 1 of the Constitution and Bylaws, the Tribal Chairman and seven (7) other Council members are elected at large. The Chairman represents the membership as a whole and each Councilman represents one the following districts:

- | | |
|---------------------|--------------|
| 1. Hostler-Matilton | 4. Campbell |
| 2. Socrish-Chenope | 5. Bald Hill |
| 3. Agency | 6. Mesket |
| | 7. Norton |

If any member of the Tribal Council or other elected official shall die, resign, be removed or recalled from office, or shall be found guilty while in office of a felony or misdemeanor involving moral turpitude in any Indian, State, or Federal court, or if he shall miss three (3) consecutive regularly scheduled meetings of the Council without being excused by that body, the Tribal Council shall declare the position vacant.

If more than six (6) months remains in the term of the position the Election Board shall conduct a special election of the voting membership for the purpose of filling the vacancy. If less than six (6) months remains in the unexpired term the Council shall appoint a representative to serve the remainder of the unexpired term. The candidate receiving a plurality of votes in this election shall be the winner.

7-c. Primary Election.

A Primary Election shall precede each General Election for the purpose of narrowing each district race, Election Board vacancy, and the position of Tribal Chairman to a maximum of two (2) candidates, thus ensuring the winning candidate will have received a majority of all votes cast. If only two (2) candidates file in any race their names will not appear on the ballot until the General Election. Any candidate for an office who at a Primary Election receives votes on a majority of all the ballots cast for candidates for that office shall be elected to such office. Where no candidate for office receives a majority of all votes cast for an office, the two (2) candidates receiving the highest number of votes cast for that office shall stand for election to that office at the General Election. Where a candidate has been elected to an office at the Primary Election, that office shall not appear on the ballot at the ensuing General Election notwithstanding the death, resignation, or other disqualification of the candidate at a time subsequent to the Primary Election. Successful candidates shall be issued the oath of office following the conclusion of the General Election at the same time and in the same manner as other successful candidates of the General Election.

7-d. General Election

A General Election shall be held in June of each year as otherwise provided in Section 6 of this Ordinance. Candidates who are not elected to an office in the Primary Election shall stand for election in the General Election. Any candidate for an office who at a General Election receives a majority of the votes cast for that office shall be elected to such office.

7-e. Recall Election

Upon receipt of a petition signed by one-third (1/3) of the voters, who were registered to vote in the last election, calling for the recall of any member of the Council or Election Board, it shall be the duty of the Election Board to call and conduct within forty-five (45) days an election on such recall. Recall shall be effective only if a majority of the Tribe's registered voters shall vote in favor of such recall. Within four (4) days of the filing of a petition for recall, the officer sought to be recalled may file with the Election Board an answer in not more than 500 words to the statement of the proponents of the petition, and if such answer is filed it shall be published together with the petition statement in the sample ballot of the election on such recall. Once a member has faced a recall attempt, no further recall action may be brought against him until at least one (1) year has passed. No member of the Council shall be subject to recall action within the first six (6) months of his term.

7-f. Referendum Election.

Upon receipt of a petition signed by one-third (1/3) of the voters who participated in the last election or upon receipt of a resolution of the Tribal Council, the Election Board shall call and conduct within forty-five (45) days an election on any enacted or proposed enactment of the Council, or any proposal initiated by the voters. Should that measure fail, it cannot be reconsidered until at least one (1) year has passed. Should it pass, the Council is bound by that decision. A measure shall be deemed to fail in the event of a tie vote. Any ordinance submitted to referendum for ratification can only be amended by like action.

7-g. Constitutional Amendment.

Amendments to the Constitution and Bylaws may be proposed by either of the following documents being submitted to the Tribal Election Board along with the desired modification. Resolutions of the Tribal Council must be filed in the same manner as petitions as defined in Section 8-b of this Ordinance.

- (1) A resolution explaining the proposed change which is supported by an affirmative vote of at least six (6) of the Tribal Council Members.
- (2) A petition signed by at least twenty percent (20%) of the Tribe's registered voters.

Unlike recall and referendum elections, the Constitution does not require an election to be held within 45 days for a proposed constitutional amendment. Therefore, in order to spare the expense of a separate election, and with the intent of having proposed constitutional amendments voted on by as many tribal members as possible, such proposed amendments shall be voted upon only during a General Election. Once a petition or resolution had been received and deemed valid, and once the specific language which will become part of the Constitution and Bylaws, if such amendment is adopted and approved, has been determined, the Election Board shall cause the proposed constitutional amendment to be put to a vote at the next General Election. If at such election the proposed amendment is adopted by a majority of those voting in the election and if at least thirty percent (30%) of the Tribe's registered voters shall vote, that amendment shall be submitted to the Commissioner of Indian Affairs and if approved by him, shall thereupon take effect.

7-h. Election Board Members.

The Tribe's voting membership shall elect an Election Board composed of five (5) members. The terms shall expire as follows: One in one year, two in two years, two in three years and their successors shall serve three year terms. The Election Board shall call and conduct elections to fill the vacancy of a regular member. Qualification standards and nomination procedures for Election Board members shall be the same as for Tribal Council candidates.

- (1) The membership shall also elect five "alternate" Election Board members. The terms of office, qualifications and election process shall be the same as for the Election Board, except the alternate Board shall be elected from among candidates running for seats as alternate Election Board members. In the first election for alternate Election Board members, the terms shall expire as follows: one in one year, two in two years, two in three years and their successors shall serve three year terms. In the first election candidate terms shall correspond to votes, with the candidates receiving the highest number of votes serving the longest terms and the candidate receiving the lowest number of votes serving a one year term. Vacancies on the Election Board shall be filled from among elected alternates with the candidates receiving the highest number of votes serving as the first alternate and the candidate receiving the lowest number of votes serving as the fifth alternate.
- (2) The Election Board shall select annually from its own membership a Chairman. The Election Board shall be responsible for screening candidates calling and conducting election, settling any election disputes, certifying election results and installing successful candidates. The Election Board Chairman shall administer oaths of office. The Board shall establish its own rules of procedures. Members of the Board shall receive fair payment to be set by the Council for the performance of their duties. The Board may levy and collect filing fees from candidates to help defray cost of elections. It may also require that a fee accompany protests of election for Tribal Council members to help defray any costs of recounts or such actions as the protest may require. Such fee may be refunded if the aggrieved party's protest is sustained. Members of the Board shall be subject to the recall provisions of Article VII, Section 3 of the Constitution.

7-i. Elected Judicial Officers.

1) Qualification for Elected Tribal Judge

Any person may announce his or her candidacy for elected tribal judicial office provided the following qualifications are met:

- (A) Must be at least 25 years of age.
- (B) Must never have been convicted a felony, been convicted within the ten years preceding his/her election, of a misdemeanor involving moral turpitude, corruption or dishonesty, as defined by this Ordinance.
- (C) Must agree to be subject to a background investigation conducted by the Tribal law enforcement agency.
- (D) Must live within 100 miles of the Reservation.
- (E) Must have successfully completed a Tribal Court orientation session as specified in Ordinance No. 95-1, governing election, appointment and removal of judges.
- (F) Must have passed an examination as specified in Ordinance No. 95-1, governing election, appointment and removal of judges, demonstrating:
 - (i). a minimal working knowledge of the operation and procedures of the Tribal Court and the sources of law it applies;
 - (ii). a basic ability to communicate well in writing;
 - (iii). a working knowledge of the Hoopa Valley Law and Order Code; and,
 - (iv). a familiarity with federal Indian law.
- (G) Prior to assuming office, non-attorney judges who have not previously served as a judge of the Tribal Court must complete a minimum of five days additional training in courses specifically designed for training judges.

Candidates shall provide documentation verifying that they meet all eligibility criteria at the time they declare their candidacy, provided that, verification that the candidate has successfully completed the requirement of qualification (e) and (f) above, may be submitted up to one (1) week prior to the date the Board meets to qualify candidates, if the candidate can demonstrate that orientation and/or testing opportunities will be available during that time frame which will allow the candidate to timely obtain the needed certifications.

(2) Procedure for Review and Determination of Candidacy Qualification and Posting of Qualified Candidates and Mailing of Sample Ballots

The procedure for review and determination of candidate qualifications and for posting of qualified candidates and mailing of sample ballots shall be the same as for Tribal Council candidates, as set forth in section 7-a, above.

SECTION 8. PETITIONS.

The following provisions shall apply to petitions for all purposes hereunder, including initiative, referendum, recall, nominations, or any other purpose unless expressly limited by contrary provisions in the Constitution and Bylaws.

8-a Petition Format.

Only an enrolled Hoopa Tribal member 18 years of age or over shall be eligible to initiate, collect signatures and submit a petition to the Election Board. Each page must include a declaration as to who carried the petition which will include the carriers signature, complete mailing and residential address, and the date the petition was first put into circulation. A petition must specifically state its purpose and any petition for recall, initiative, or referendum shall include a statement in not more than 500 words setting forth grounds on which the recall, initiative, or referendum is sought. Petitions may consist of as many pages as necessary to accommodate the signatures of the petitioners. However, each page must set forth the purpose of the petition.

The Election Office shall issue a form of petition for use by tribal members. All pages of the petition will numerically numbered and strictly issued only by the Election Office. All additional pages of the approved petition must be issued to the petition spokesperson. Only pages numbered and issued by the Election Office will be accepted. Such additional pages will be provided within two (2) working days from the Board's receipt of the request.

Only persons who are duly registered shall be entitled to sign a petition and each signer shall, at the time of signing such petition, personally affix the date of signing and his address as provided for receipt of tribal per capita distributions, his date of birth, and his enrollment number. Such petition may not be signed within 100 feet of any election booth, polling place, or place where registration of voters is being conducted.

A petition calling for the recall of a Council or Election Board member is valid only if signed by duly registered voters equal to at least one-third (1/3) of the number of voters who were registered in the last election. If 1% of signatures are invalid the whole petition.

When a petition is taken out to recall an elected official, the person filing the petition is required to pay for legal notice to be printed in a newspaper of general circulation on the Hoopa Valley Reservation. The Election Board office will be required to send the legal notice language to the newspaper, and the wording of the notice will name the person taking out the petition, the names of the people packing the petition papers, the person the action against and the deadline date petition is to be turned in to the Election Board. The Election Board office is required to send a copy of the petition first page to the person the action is taken against.

A petition calling for an election on any proposal initiated by voters or any enactment or proposed enactment of the Council is valid only if signed by duly registered voters equal to at least one-third (1/3) of the number of voters who participated in the last election. If 1% of signatures are invalid the whole petition is void.

8-b. Filing of Petitions.

No petition will be approved for circulation by the Election Board unless it meets all the requirements of this ordinance. Therefore, the petitioner must submit a proposed petition to the Election Office prior to circulation so that errors as to form or legality may be identified in advance. The Election Office will promptly assist the petitioner in correcting any errors as to form. The original petition will be stamped as to the date and time of receipt by the Election Office, and returned to the petitioner.

The Election Office will forward a copy of the proposed measure to the Election Board attorney solely for the purpose of determining whether or not it would be valid under the Tribal Constitution if adopted. Such an opinion with supporting reasons shall be issued within ten (10) calendar days of receipt of the measure by the Election Board attorney and shall be supplied to the petitioner by the Election Office. The petitioner may at their option, accept or reject, the opinion the Election Board.

The petitioner has five (5) working days to amend his/her petition and return it to the Election Office for certification. At the time of certification the Election Office will immediately notify the petitioner in writing of a date, time and place of the meeting to represent the circulated petition to the Election Board. The meeting will be held on the 30th working day immediately following the date the petition was approved for circulation. Petitions submitted after the 30th working day shall not be accepted. In order to conduct the necessary examination of the petitions submitted, only Tribal Election Board members, the petitioner and no more than two (2) official spokesman for the petition will be allowed to attend this meeting.

8 -c. Action on Petitions.

When the examination meeting has been called to order, the spokesman for the petitioners shall officially present the original of the petition to the Election Board. All petition pages which the petitioner wishes the Board to review and consider must be submitted to the Board at this meeting. Petition pages that are not submitted to the Board at this meeting (such as those which have been forgotten or lost, or which are submitted later) and the signatures appearing thereon shall not be considered.

The Chairman shall immediately designate thereon the date of receipt and shall inform the spokesman submitting the petition that no additional signatures may be added to the petition. Upon receipt of the petition in the above manner, the Election Board shall immediately review the petition. In the event an individual's signature appears on a petition more than once, all but one of his/her signatures shall be stricken. The Election Board shall then determine whether the required number of signatures have been affixed to any petition and whether those signing are registered voters. If 1% of signatures are invalid the whole petition is void. Signatures that are stricken from the petition by the Board for appearing more than once, or signatures that are stricken from the petition by the petitioner prior to Board review, shall be disregarded entirely and shall not be considered toward the 1% limit for voiding the entire petition.

The purpose of the examination meeting is only for the Board to examine the petition and signatures thereon for validity, to relay their findings to the petitioner, and either to declare the date of an election or to declare the petition is void. After the petitioner provides all of the petition pages to be considered, they shall remove themselves from the meeting room and await the Board's final decision. The Election Board alone shall examine the petition and signatures thereon, and shall determine the total numbers of signatures, the number of valid signatures, and the number of invalid signatures. The petitioner or their spokesman will not be permitted to request recounts, challenge any valid or invalid signatures, or otherwise in any way challenge or oversee the decisions or operations of the Election Board at this meeting. However, the petitioner may seek judicial review in accordance with Section 24 of this Ordinance.

When the review of the petition is complete, the Secretary of the Election Board shall acknowledge in writing, to the person submitting the petition, receipt of the petition, indicating the exact number of valid and invalid signatures which are attached. Should the petition prove to be valid, it shall then be the duty of the Election Board at this meeting to call for an election in accordance with the Constitution and Bylaws and this Ordinance.

After final submission and review of the petition, in order to protect the privacy of those persons signing the petition, the petition and signatures thereon shall remain a confidential document under the sole possession of the Election Board.

Should the petition being filed be for the recall of an Election Board member, or for the recall of a member of his immediate family, that member shall automatically be replaced by an alternate in the above mentioned meeting.

SECTION 9. VOTER QUALIFICATION.

9-a. Qualified Voter.

Any member of the Tribe who will be at least eighteen (18) years of age on election day shall be entitled to vote, provided he is duly registered.

9-b. Absentee Voter.

Any qualified voter who meets one of the following criteria:

- (1) Physically resides outside the boundaries of the Hoopa Valley Reservation.
- (2) Expects to be absent from the Hoopa Valley Reservation on election day.
- (3) Is physically incapacitated so as to be unable to go to the polls on election day.

SECTION 10. BALLOTS.

10-a. Form of Ballots.

The ballot shall be numbered and printed with a stub perforated so that the ballot can be easily detached therefrom. Upon the stub shall be printed these words "If for any reason the ballot is spoiled or not executed, the clerk shall write 'spoiled' in the space provided."

10-b. Number of Ballots.

Ballots shall be supplied by the Election Board in sufficient quantity to assure that each voter whose name appears in the 'Register of Voters' may receive a ballot.

10-c. Delivery and Receipt of Ballots.

The secretary of the Election Board shall cause to be delivered to the polling place printed blank ballots and other election material including the ballot box with a lock and key and fitted with one opening, and not more, of sufficient size to admit a single folded ballot. The Election Board members shall count all ballots delivered and shall be responsible for an accounting of all ballots and other election materials until turned over to the Chairman of the Election Board as provided in Section 16 of this Ordinance.

SECTION 11. ABSENTEE VOTING.

Absentee ballots shall be issued upon request for all elections as provided for in Section 11-a of this Ordinance.

11-a. Basis for Providing Absentee Ballots.

- (1) Temporary Absence. Whenever a qualified resident voter expects to be absent from the Hoopa Valley Reservation for any reason, including illness, on the date of the election he may request an absentee ballot for the pending election in the manner provided in Section 11-d. of this Ordinance.
- (2) Non-resident Status. Registered voters who physically reside outside the boundaries of the Hoopa Valley Reservation are to be considered non-residents for the purpose of participating in Tribal elections. As such, they shall be entitled to vote by absentee ballot in all elections unless they change their residence to within the boundaries of the Hoopa Valley Reservation. The Election Board shall determine whether a person is entitled to non-resident status.
- (3) Physically Incapacitated. Registered voters who are unable to go to the polls by reason of being bedridden or disabled may request an absentee ballot for the pending election in the manner provided in Section 11-d. of this Ordinance.

11-b. Notification.

As long as the non-resident absentee voter is registered, he shall be notified by mail of elections, the issue and/or candidates to be voted on, and shall be advised of the proper manner of requesting an absentee ballot. Notification shall be in the form of the sample ballot.

11-c. Proper Address.

It shall be the duty of the non-resident voter to provide a current mailing address to the Election Board. All correspondence regarding Tribal elections will be mailed to the last address supplied by the voter.

11-d. Manner of Requesting and Issuing Absentee Ballots.

Only non-resident status voters may request absentee ballots by mail. Each application for a non-resident absentee ballot shall be made individually, in writing, by the voter who is to cast the ballot. Upon receipt of a valid request, the Election Board secretary shall forward to the voter all necessary forms, ballots, and instructions to be used in the pending election. Any mailed absentee ballots received in the Election Board post office box after 5:00 p.m. on election day shall not be counted.

Resident absentee voters will not be allowed to receive or return their ballots by mail. A resident voter who is unable to travel to the polls by reason of absence from the Hoopa Valley Reservation on election day may request and cast an absentee ballot as follows; 1. the voter shall appear in person at the election office during regular business hours 2. the voter shall complete and sign a written request for an absentee ballot on a form provided by the election office 3. an absentee ballot will then be provided to the voter who shall proceed to cast the ballot at that time. The ballot shall be deposited in the locked ballot box provided for absentee ballots in the Election Office.

A resident voter who is unable to travel to the polls by reason of his being bedridden or disabled may request by mail, under his signature, to the Election Board, that he be provided with an absentee ballot. An absentee ballot shall be delivered to him by two Election Officials, provided he will be within the boundaries of the reservation. The voter shall proceed to cast the ballot at that time. When marked by the voter, sealed in the inner envelope provided, inserted in the outer envelope, sealed, and voter's signature affixed thereto, such election official shall immediately return the ballot to the polling place and deposit it in the locked ballot box provided for absentee ballots.

Only one ballot, or set of ballots, shall be issued to each voter for the election in process. Each such ballot stub shall be stamped with the words, "absentee ballot" and bear the date of issuance. Should more than one ballot be issued due to an error of the Election Board, the voter shall immediately be notified that he should execute and return only one of the ballots and that if he should execute and return both ballots, the second ballot received shall be automatically disqualified without being opened. A qualified voter shall be allowed to cast only one ballot for each Tribal election. In conjunction with issuing an absentee ballot, the signature space of the official Register of Voters shall be marked indicating the voter has been issued an absentee ballot and the date of issue. The secretary shall maintain a file of all applications received with the date of receipt stamped thereon. Further, the file shall show the names and addresses of all persons to whom absentee ballots are mailed, including date of mailing.

11-e. Execution and Return of Absentee Ballots by Mail

The absentee voter shall mark and fold the ballot and enclose it in the inner envelope supplied by the Election Board. The ballot shall be folded so as to conceal the marking and be placed in the inner envelope marked "Absentee Ballot" and the envelope sealed. It shall then be inserted in the pre-addressed outer envelope, on which the voter must sign his name, sealed and mailed.

ANY ABSENTEE BALLOT NOT PROPERLY SUBMITTED IN
ACCORDANCE WITH THESE INSTRUCTIONS FOR
ABSENTEE BALLOTING SHALL NOT BE COUNTED.

Absentee ballots returned by mail shall remain in the locked post office box until 5:00 p.m. on election day. Two members of the Election Board will remove the envelopes from the post office box and immediately return them to the polling place and deposit them in the locked ballot box provided for absentee ballots.

SECTION 12. ELECTION SEQUENCE OF EVENTS.

Attached to and made a part of the Ordinance shall be charts indicating the sequence of events for various types of elections. These charts shall be labeled as follows:

EXHIBIT 'B'
EXHIBIT 'C'

EXHIBIT 'D'
EXHIBIT 'E'
EXHIBIT 'F'

The attached charts will contain specific days on which the necessary events preparatory to the elections shall occur and shall be followed by the Election Board in conducting Tribal elections.

SECTION 13. VOTING HOURS ON ELECTION DAY

All elections shall be held between the hours of 9:00 a.m. and 7:30 p.m. Any persons waiting in line to vote at closing time will be permitted to vote, but those presenting themselves after the hour of closing of the polls will not be permitted to vote.

13-a. Electioneering and Loitering

No person shall be allowed to electioneer within 100 feet of the building where the election is in progress. Neither will any loitering be permitted in the polling place during voting hours. It shall be the duty of the election officials at the polling place to obtain such assistance as may be required to maintain order about the building during the progress of the election.

SECTION 14. POLL OFFICIALS.

It shall be the duty of the Chairman or Vice-Chairman of the Election Board to see that the balloting and the canvassing of the election returns are carried out in the manner prescribed in Sections 13, 14, 15, and 16 of this Ordinance.

14-a. Alternates for Polling Officials.

Should any election official of the polling place become ill or have an unforeseen emergency arise, the Chairman of the Election Board shall be notified immediately so that an alternate may be prepared to assume the responsibilities of the vacated position. Alternates shall also be utilized in accordance with Section 4-a(2) of this Ordinance.

14-b. Duties of Poll Officials and Voters.

The Chairman shall be responsible for all arrangements necessary to conduct an election. He shall direct the secretary in securing ballots and other election materials necessary to conduct balloting. Only those lists required to conduct the election as provided by this Ordinance will be kept or maintained while the election is in process. No separate handwritten list which will jeopardize the sanctity of the ballot shall be kept by any member of the Election Board. He shall also provide sufficient private booths for the voters to mark their ballots in secrecy. At least three (3) members of the Election Board shall be present at all times at the designated polling place on election day to permit voting to begin when the polls open and they shall remain until the polls close, all ballots have been counted, the tally properly recorded and reported, and the ballot boxes and the ballots turned over for delivery as provided in this Ordinance.

Before the balloting begins, the Election Board shall open and inspect the ballot box to determine that it is empty. The ballot box shall then be locked and shall remain locked until time to count the ballots. The absentee ballot box shall be locked by the Election Board on the date the first absentee ballots are issued or mailed. Keys to the ballot boxes shall be placed in sealed, signed, and dated envelopes at the time the boxes are locked by the Chairman or Vice-Chairman. A duplicate set of election lock file cabinet and ballot box keys shall be placed in a bank safe deposit box.

After opening of the polling place, each voter upon presenting himself to vote, shall announce to the polling officials his name and address and must then sign his name in the designated blank space adjacent to this name with an indelible pencil in the official listing of registered voters prepared especially for the subject election. Any voter who signs with an "X" or a thumb print shall have his mark witnessed by two election officials.

Also to be determined by checking his listing is whether the voter has received an absentee ballot for the pending election. If the voter has been issued an absentee ballot, absentee voters may request a challenge ballot in accordance with Section 15-c., of this Ordinance.

Upon determining that all of the above conditions have been met, the polling officials shall issue a ballot to the voter. Ballots must be shuffled prior to distribution and shall not be distributed in numerical order.

Upon receipt of a ballot, the voter shall retire to one of the private voting booths and herein mark his ballot in secrecy. Only one person shall occupy a voting booth at one time. The voter shall mark his ballot using the instrument provided by the election officials. The mark, to be valid, must be identifiable with the appropriate square or place on the ballot for which it is intended. After the ballot is so marked, the voter in the presence of the polling official shall detach and retain any identifying number on the ballot, fold the ballot so that the printed sides are completely concealed and deposit the folded ballot in the ballot box.

In the event a voter appears at the polls to vote, and finds that his name does not appear on the official listing of registered voters, the polling officials shall determine by contact with the Election Board secretary, whether that person is, in fact, duly registered. Should he be found qualified to vote he shall be permitted to cast a ballot. Should it be determined that he is not qualified to vote in that election, he shall be allowed to cast a provisional ballot, in order to have his provisional ballot counted, he shall be responsible for challenging his omission from the official list of registered voters in accordance with Section 24. When any voter presents himself for a ballot and states he, because of physical disability or infirmity, is unable to mark his ballot, one of the election officials shall cause such voter to be sworn after the following:

"Do you solemnly swear (or affirm) that you are unable to mark your ballot for voting because of a physical disability or infirmity?"

Should the voter so qualify himself, it shall be the duty of the poll officials, or individual chosen by the voter, to give the voter such assistance as he needs, but in all such instances the voter must state without suggestions from such officials the way he wishes to vote, and in no instance shall an election official by word, action, or expression attempt to influence the voter as to how he should vote. Such assistance shall be given in privacy and all persons other than the election officials, or person of voters choice, shall be kept sufficiently distant so that they will not hear or know how such infirm voter voted. Any voter who shall have need of an interpreter shall furnish his own interpreter.

SECTION 15. HANDLING OF SPECIAL CIRCUMSTANCES.

15-a. Spoiled Ballot.

Should any elector spoil his ballot in his effort to vote, he shall fold and return it in the presence of the election officials and such elector shall then in the presence of said officials, destroy said ballot and the election officials shall then provide such elector with another ballot in the same manner that the first one was provided. The election official shall write on the proper blank line on the stub of the spoiled ballot the word 'spoiled'. He shall not write the name of the elector upon the stub of the duplicate ballot, but shall write instead the words, 'Duplicate of Ballot #____', giving the number of the original or spoiled ballots.

15-b. Write-in Votes.

Write-in votes are not allowed and will not be counted.

15-c. Challenged Ballots.

In the event a voter appears at the polls to vote, and finds that they have already been issued an Absentee Ballot for the pending election, upon request by the voter, the Polling Official shall issue a Challenged Ballot to the individual. Absentee voters not appearing at the polls may obtain a Challenged Ballot by written request to the Election Office.

SECTION 16. CANVAS OF ELECTION RESULTS.

The Election Board will count and record the votes as soon as the polls close in accordance with this section. When canvas of election results has been completed, all marked and unmarked ballots will be turned over to the Chairman of the Election Board who, with the assistance of the other members of the Election Board, will have the marked ballots sealed and locked in a lock file cabinet provided, for a period of two (2) years, before being destroyed, where they shall be available for inspection by the Election Board. Unmarked ballots will be destroyed at this time.

16-a. Poll Watchers.

Each candidate for a position on the Tribal Council is entitled to choose one person to observe on his behalf, the counting of ballots at the polling place. In elections to vote on issues, the Election Board may designate two (2) watchers to observe the counting of the ballots; one to represent each side of the question under consideration. No watcher shall in any way interfere with or hinder the election officials in exercising their responsibility. If interference occurs, the Election Board Chairman shall call for a suspension in the count until the individual or individuals responsible for the interference are eliminated from the room. Duplicate count by poll watchers will not be allowed. Poll watchers shall not be seated at the Election Board table when the count is taking place. They must remain a distance of at least ten feet (10') from this table.

16-b. Counting the Ballots.

After the polls have closed, the Chairman, in the presence of the Election Board and any poll watchers, shall unlock the locked ballot box containing the executed ballots. The list of those signing in to vote during the election day will be counted, and the number of those signing in to vote must conform with the number of executed ballots. The election officials shall then count the ballots cast in the following manner. As the ballots are opened, a Board member selected by the drawing of straws (that member drawing the longest straw), shall verbally announce the choice or choices indicated on the ballot. The Election Board members shall record such information on tally sheets provided for such purpose. Upon completion of the tally, the Board shall note on their tally sheets the number of votes cast by those voting in person.

16-c. Counting Challenged Ballots.

A challenged ballot shall be counted only if it is determined by the Election Board that the ballot should be declared valid. This determination shall be made during the 'Preparation for Counting Absentee Ballots' procedure. If declared valid the ballot will be prepared for counting in the same manner as absentee ballots and will be counted at the same time as absentee ballots. If a voter returns his absentee ballot, and his challenge ballot, the challenge ballot will not be counted. The challenge ballot will remain unopened and kept on file for two years in accordance with Section 19., of this Ordinance.

16-d. Preparation for Counting Absentee Ballots.

After the count has been completed of those ballots executed in person, the Chairman, in the presence of the other Election Board members and any poll watchers, shall unlock the absentee ballot box. The list of those who have voted by absentee ballot shall be compared to the envelopes in the ballot boxes to confirm that the ballots have been returned in accordance with absentee voter regulations. Should any envelope reviewed not conform with the regulations set forth in this Ordinance, it will remain unopened and shall be marked 'spoiled'. Each member of the Election Board shall initial the envelope in which the ballot is improperly returned. Those envelopes marked 'spoiled' shall be sealed and reserved along with other executed ballots at the end of the count.

Upon completion of the review of the envelopes, the outer envelopes shall be opened and the inner envelopes containing the ballots removed. The outer envelopes from those ballots determined to have been properly returned, shall at this point be set aside until after the count at which time they will be placed in the election file cabinet with other materials from the election.

16-e. Improperly Marked Ballots.

Should a portion of a ballot be improperly marked, it shall not exclude from the tally, the part which is correctly executed. Any ballot on which the intent of the voter cannot be determined, shall be preserved and filed with ballots submitted to the Election Board Chairman for safekeeping with the notation placed on the face of the ballot indicating it was not counted.

16-f. Primary Election.

In the event that, at the completion of the canvas of Primary Election results as prescribed in this section, the tally reveals that any candidate has received the same number of votes received by another candidate in that contest, the Election Board will conduct a recount of the ballots cast in the contest. Should a tie exist at the completion of the recount, and no candidate has received a majority of votes cast in that contest, candidates receiving the same number of votes shall be candidates at the ensuing General Election whether or not there are more candidates at the General Election than prescribed by this Ordinance. In no case shall the candidates determine the tie by lot.

16-g. General Election.

In the event that, at the completion of the canvas of the General Election results as prescribed in Section 16, the tally reveals that any candidate has received the same number of votes received by another candidate in that contest, the Election Board will conduct a recount of the ballots cast in that contest. Should a tie exist at the completion of the recount the Election Board will conduct a special 'run-off' election limited to the tied candidates. Such run-off election shall be immediately noticed to be held not more than forty-five (45) days from the date of the General Election, unless delayed by a judicial review of the General Election results. Should three (3) names appear on the General Election ballot because of a tie in the Primary Election, the winner shall be determined by a plurality vote rather than requiring a majority.

16-h. Tie Votes Involving Issues, Referendum, Recall or Constitutional Amendments.

In the event that, at the completion of the canvas of results of any election involving issues, referendum, recall or constitutional amendments as prescribed in this Section 16, the affirmative and negative votes are tied, the Election Board will conduct a recount of the ballots cast. Should a tie vote exist at the completion of the recount the Election Board shall conduct a special election limited to the tied issue, referendum, recall or constitutional amendment contest. Such special election shall be immediately noticed to be held not more than forty-five (45) days from the date of the election in which the tie vote occurred. Except if such tie vote occurs at a primary election the special election shall be held in conjunction with the ensuing general election.

16-i. Announcement of Results.

An uncertified statement shall be issued and posted to announce the election results within three (3) days following completion of the canvas of the election.

SECTION 17. CONTEST OF ELECTION RESULTS.

17-a. Primary, General and All Other Elections - Grounds for Contest.

(1) Any registered voter of the Hoopa Valley Tribe may contest any Election result for any of the following causes:

- (i) Any member of the Election Board was guilty of misconduct in the performance of his or her duties on the Board.
- (ii) That any candidate has given to any elector or member of the Election Board any bribe or reward for the purpose of procuring his election.

(iii) That illegal votes were cast.

(iv) That the Election Board in conducting the election or in canvassing the returns, made errors sufficient to change the results of the election as to any person who has been declared elected.

(v) That there was an error in the vote counting or summation of ballot counts sufficient to change the results of an election.

(vi) That a candidate knowingly submitted false information to the Board at the time of his or her qualification.

(2) Any candidate may contest the election results for the office he was a candidate on any of the following causes:

(i) Any member of the Election Board was guilty of misconduct in the performance of his or her duties on the Board.

(ii) That any candidate has given to any elector or member of the Election Board any bribe or reward for the purpose of procuring his election.

(iii) That illegal votes were cast.

(iv) That the Election Board in conducting the election or in canvassing the returns, made errors sufficient to change the results of the election as to any person who has been declared elected.

(v) That there was an error in the vote counting or summation of ballot counts sufficient to change the results of an election.

(vi) That a candidate knowingly submitted false information to the Board at the time of his or her qualification.

When any election is contested on account of misconduct of the Election Board, or any member thereof, the election shall not be annulled or set aside upon any proof thereof, unless the misconduct was such that changes the result of the election.

An election shall not be set aside on account of illegal votes unless it appears that a number of illegal votes has been given to the person whose right to the office is contested, or who has been certified as having tied for first place, which, if taken from him, would reduce the number of his legal votes below the number of votes given to some other person for the same office, after deducting therefrom the illegal votes which may be shown to have been given to that other person.

Any qualified voter contesting an election under this section shall file a written statement with the Election Board stating (1) his or her name and address; (2) the name of the candidate and office, or the measure; and (3) the particular grounds of contest. Such written statement must be delivered to the Election Board office no later than 5:00 p.m. on the third day following the election.

Upon receipt of a contestant's written statement the Election Board shall review the allegation, and such review may include a hearing where the contestant and any candidate may present evidence. The hearing shall be recorded by video camera in a manner which will accurately capture the comments of each speaker, as this hearing will become part of the record upon which the Board bases its decision. After which the Board shall respond with a final decision in writing prior to posting the official certification of election results.

17-b. Recount Contest.

Any contest involving a recount of votes cast shall be accompanied by a non-refundable fee in the amount of \$150.00. Upon receipt of the contest and the recount fee, the Election Board shall proceed to conduct a recount of the votes for the particular office or for the particular measure. Section 16 of this Ordinance is applicable to recounts pursuant to this section. All recounts shall be completed prior to posting the official certification of election results.

17-c. Official Certification of Election Results.

- i. The Election Board shall post an official certification of the election results for any primary election on the seventh day immediately following the primary election.
- ii. The Election Board shall post an official certification of the election results on the seventh day immediately following the general election. Copies of the certification will be mailed to the Hoopa Valley Tribal Council, Bureau of Indian Affairs and each person who was a candidate in the election.

SECTION 18. INSTALLATION OF SUCCESSFUL CANDIDATES.

18-a. Notification and Installation.

Successful candidates shall immediately be notified by mail and telephone, if possible, that they will be installed in office within ten (10) days after the General Election following certification of General Election results. Installation of any candidate for a particular position may be postponed, however, until such time as there is a determination of any dispute over the election for that position. Installation of a non-attorney judge who has not previously served as a judge of the Tribal Court shall be postponed until the candidate provides written evidence of completion of a minimum of five days additional training in courses specifically designed for training judges.

18-b. Oath of Office - Tribal Council.

Each successful candidate elected to the Tribal Council shall take an oath of office prior to assuming the duties of such position, by which oath he shall pledge himself to support and defend the Tribe's Constitution and Bylaws. The following form of oath of office shall be administered by the Chairman of the Election Board:

"I, _____, do solemnly swear (or affirm) that I will carry out faithfully and impartially the duties of my office to the best of my ability, that I will promote and protect the best interests of my Tribe, in accordance with its Constitution and Bylaws."

18-c. Oath of Office - Election Board.

Each successful candidate elected to the Election Board shall take an oath of office prior to assuming the duties of such position, by which oath he shall pledge himself to support and defend the Tribe's Constitution and Bylaws. The following form of oath of office shall be administered by the Chairman of the Tribal Council:

"I, _____, do solemnly swear (or affirm) that I will carry out faithfully and impartially the duties of my office to the best of my ability, that I will promote and protect the best interest of my tribe, in accordance with its Constitution and Bylaws."

SECTION 19. ELECTION RECORDS.

The secretary of the Election Board shall be responsible for seeing that files on each election are maintained on a permanent basis and include the following material from each election:

1. Election notices posted and placed in newspapers.
2. Nomination paper and Disclosure Statement.
3. Sample ballot.
4. Unofficial certification of election results and official certification of election results.
5. Voter registration list.
6. Outer envelopes used in absentee voting.
7. Executed ballots.
8. Video recording of any disqualification hearing held pursuant to Section 7-a.

9. Video recording of any election contest hearing held pursuant to Section 17-a.

All of the articles mentioned in Section 19 with the exception of #6 and #7 must remain in the files permanently. At no time will an original document be permanently removed from the files. Any Hoopa Tribal Member may request and receive copies of items 1, 2, 3, 4, and 5. At the end of two (2) years from the date of certification of an election, executed ballots and outer envelopes from that election shall be destroyed by the Chairman in the presence of the other members of the Election Board.

Disclosure Statements completed by candidates for elected office, as well as documents relating to the criminal history investigation of candidates are treated as confidential records and are not available to the public except with the consent of the candidate or pursuant to court order.

Judicial review of final Election Board or actions will be based on whether the decision or action conformed to the standards set forth in Section 4-c. The record retained by the Board must be accurate and complete enough to satisfy those standards. Therefore, in addition to the documents listed above, the Board shall retain all documents, recordings, and other evidence relied upon when making a final action or decision until the time for petitioning for judicial review of an action or decision has passed.

SECTION 20. ELECTION BOARD BUDGET.

The Election Board shall request that a specified amount be budgeted by the Hoopa Valley Tribal Council in each fiscal year Tribal budget under a separate line item. The funds budgeted shall be utilized in accordance with all Tribal financial plans of operation for conducting Tribal elections in accordance with this Ordinance only.

SECTION 21. AMENDMENTS.

The Election Board may amend this Ordinance by a majority vote of a quorum at any duly noticed meeting of that body, provided that: 1), an amendments may not affect an election which is in progress when that amendment is finally adopted; and 2), the Legislative Procedures Act (LPA) is complied with as required by amendments to the Constitution at Article VI, Section 4 approved by the tribal membership in the June 2012 general election. Because the LPA was written to apply to the Tribal Council, some of its provisions necessarily cannot apply to the Election Board. Compliance with the LPA will be assured by taking the steps described in this section.

21-a. Initial Review and Issuing Public Notice.

Any person (including a member of the Election Board) may submit a proposed Election Ordinance amendment to the Board. The Board may choose to accept the proposal for further consideration, and if it does so, shall identify who shall be responsible for the drafting of the actual language to be enacted (unless it is submitted in a form that would, if enacted, accomplish its intended effect without further changes).

If the proposed amendment could reasonably be expected to affect any other tribal departments, the Board shall provide each such department with a copy of the actual language of the proposed amendment. Such departments shall be responsible for responding to the Board in a timely manner with any comments, suggestions or recommendations. The Board shall review and consider all timely comments, and may make such changes to the original proposed amendment as it deems necessary or appropriate.

Once other departments (if any) have had an opportunity to respond, the Board may set the matter for a public hearing and schedule a hearing date, or may take final action in accordance with subsection 21-d below. Ordinarily the proposed amendment will be offered for public comment unless the contemplated changes are merely technical in nature.

When a proposed amendment is offered for public comment, the Board shall post notice in a public place on the Reservation of the public hearing, and shall also cause notice to be published in appropriate public media. This notice shall be provided at least two (2) weeks prior to the hearing date, and shall state the date, time, and place of the hearing. This notice shall include a brief description of the proposed amendment and the final date on which written comments will be accepted.

21-b. Public Comments.

When a proposed amendment is offered for public comment and a hearing schedules, the Board shall appoint a hearing officer to preside over the hearing. This may be a member of the Board, of another tribal department, or of the public. The hearing officer shall call the hearing to order, briefly outline the hearing procedures and the subject matter of the hearing, and state the final date on which written comments will be accepted.

As required by Article VI, Section 11 of the Constitution, the Board shall cause the hearing to be recorded by video camera in a manner which will accurately capture the comments of each speaker, as these comments will become part of the record upon which the Board bases its decision. Written comments shall be accepted at this hearing, and shall also be accepted by personal delivery to the Board office or by mail so long as they are delivered or postmarked by the announced final date of acceptance.

21-c. Review of Public Comments.

All written comments timely received from the public and any affected tribal departments shall be compiled into a packet for Board review. The packet shall also include a copy of the video recording of the public hearing described above. The proposed amendment will be placed on the agenda for consideration at a duly-called Board meeting. The Board may decide whether any other information is necessary, including whether to send the proposal to any departments for reconsideration. The Board shall have discretion as to when final action will be taken; however, the Board shall not postpone action for an unreasonable length of time.

21-d. Final Board Action.

Once the Board has determined that it has adequately considered a proposal as provided in this section, it shall take action by vote according to the procedures set forth in this Ordinance. If the proposed amendment is approved, the Board shall make a public announcement in a means similar to that called for by a section 21-a, and shall be responsible for codifying the approved amendment into this ordinance. Again, an amendment may not affect an election which is in progress when that amendment is finally adopted.

SECTION 22. RATIFICATION OF ELECTION ORDINANCE.

The Election Ordinance shall become effective upon approval by a majority of the Tribal Election Board members in a duly called and noticed Election Board meeting. Upon approval of this Ordinance, and all previous Hoopa Tribal Election regulations enacted prior to this Ordinance shall be expressly revoked.

SECTION 23. CONSTITUTIONAL CONFLICT.

Any portion of this Ordinance in conflict with the Tribal Constitution and Bylaws shall be superseded by the Tribal Constitution and Bylaws.

SECTION 24. JUDICIAL REVIEW.

24-a. Authority.

Article VI, Section 11 of the Constitution was added in the June 2012 general election to allow for limited judicial review of Election Board actions.

"Section 11 JUDICIAL REVIEW:

The Hoopa Valley Court shall have limited judicial review authority over Election Board actions as follows:

- (a) To the extent practicable, the Court shall defer to the decisions of the Election Board as to both questions of law and fact. As necessary to decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning of applicability of the terms of an Election Board action. The reviewing court shall—
 - (1) Compel Election Board action unlawfully withheld or unreasonably delayed; and
 - (2) Issue declaratory judgments or otherwise hold unlawful and set aside Election Board action, findings and conclusions found to be—
 - (a) Arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;
 - (b) Unsupported by substantial evidence in a case reviewed on the record of an Election Board hearing. The record shall consist of a recording of testimony and exhibits, together with all papers and requests filed in the Board proceeding. This shall constitute the exclusive record for the decision. The Board may impose reasonable fees for preparation of the record.
- (b) Any court proceeding involving an election in progress must occur on an expedited basis, in accordance with time frames set forth in the Election Ordinance."

24-b. Petition for Tribal Court Review.

Any party with standing to challenge any final Election Board action or decision (or an unlawful withholding or unreasonable delay of a final action or decision) must do so in accordance with the procedures set forth in this section. These procedures are intended to provide such parties the means to petition for Tribal Court review on an expedited basis so as to avoid compromising election-related deadlines set for the in this ordinance and in the Constitution.

- (1) Summary proceeding. In all proceedings brought under this Section 24, the Tribal Court shall give such actions precedence over all other civil actions, and shall set hearings and trial for quick determinations. Consistent with the intent of Article VI, Section 11(b) of the Constitution, where there is any conflict between the deadlines called for herein other tribal laws providing special precedence for other types of hearing trials, proceedings under this section shall have priority unless in the Tribal Court's judgement the interests of justice demand otherwise.
- (2) Summons and complaint. In order to bring a valid challenge to any final Election Board action or decision or lack thereof, the challenging party must file its complaint with the Tribal Court within five (5) calendar days after such action or decision was issued or, in cases of the action or decision or lack thereof being challenged, state facts sufficient to support the challenge, and state the relief requested.

The summons shall comply with the requirements of Title 2 (Civil Actions), except the challenging party must serve the summons and complaint on the Election Board within three (3) calendar days of filing. Failure to effect service within this time period shall render the challenge null and void. The Election Board's time to respond with an answer shall be five (5) calendar days after its receipt of the summons and complaint.

- (3) Other motions prohibited. In order to ensure a simple and expedited challenge process, no motions to dismiss, to stay, or for summary and complaint.
- (4) Pretrial conference hearing. A pretrial conference hearing shall be set within ten (10) days of filing the complaint. The purpose of the pretrial conference hearing is to clarify pretrial discovery and the relevant issues in the challenge. Prior to the conclusion of this hearing, the Tribal Court shall set and announce a trial date within twenty (20) days, with the precise date taking into account the time necessary to complete effective discovery.
- (5) Pretrial discovery. Parties may begin discovery under this section prior to the pretrial conference hearing. However, as the Tribal Court's review will be based on the evidence contained in the record (see Section 40c, and 19), the challenging party should be aware that the Election Board will automatically begin preparing a record once served with a valid challenge summons and complaint. At a minimum, the record will likely contain much of the information otherwise available through the discovery procedures discussed below. The Board is authorized by the Constitution to impose a reasonable fee for the preparation of the record, and this fee will be imposed upon a challenging party whose demand for relief is not granted by the tribal court.

(a) Depositions. Oral depositions shall be scheduled for a date at least five (5) calendar days after service of the summons and a deposition notice, and at least five (5) calendar days before trial. On motion or ex parte application of any party or deponent, for good cause shown, the Tribal Court may shorten or extend the time for scheduling a deposition.

(b) Interrogatories. Either party may propound interrogatories to the other party after five (5) calendar days have passed since service of the summons. The responding party shall respond within five (5) calendar days. On motion or ex parte application of any party, for good cause shown, the Tribal Court may shorten or extend the time for propounding or responding to interrogatories.

(c) Inspection and production of documents. Either party may make a demand for inspection without leave of court after five (5) calendar days have passed since service of the summons. The party demanding an inspection shall, in the first paragraph of the demand immediately below the title of the case, state the identity of the demanding party, the set number, and the identity of the responding party. The demanding party shall number each set of demands consecutively, and separately for each demand in a set shall do all the following:

(i) Designate the documents, tangible things, or land or other property to be inspected either by specifically describing each individual item or by reasonably particularizing each category of item.

(ii) Specify a reasonable time for the inspection that is at least ten (10) calendar days after service of the demand, unless the Tribal Court for good cause shown has granted leave to specify an earlier date.

(iii) Specify a reasonable place for making the inspection, copying, and performing any related activity.

(iv) Specify any related activity that is being demanded in addition to an inspection and copying, as well as the manner in which that related activity will be performed, and whether that activity will be permanently alter or destroy the item involved.

Within five (5) calendar days of inspection demand, the party whom the demand is directed shall serve its response to the party making the demand, unless the Tribal Court for good cause shown has shortened or extended the time for response.

(d) Request for admissions. Either party may make a request for admissions to the other party after five (5) calendar days have passed since service of the summons. The responding party shall respond within five (5) calendar days. On motion or ex parte application of any party, for good cause shown, the Tribal Court may shorten or extend the time for requesting admissions or responding thereto.

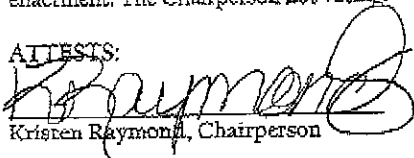
(6) Trial. No party shall have the right to a trial by jury. The challenging party has the burden of proof and must his or her case by a preponderance of the evidence.


(7) Judgement. Written judgement shall be issued within five (5) calendar days of the conclusion of trial or submission of any supplemental briefs ordered by the Tribal Court. The judgement shall clearly state which party of the Court is finding in favor of, the reasons for that finding, and any relief granted to the parties. The judgement of the Tribal Court shall be final.

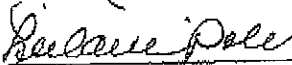
CERTIFICATION OF AMENDMENTS AND ENACTMENT
OF AMENDED ELECTION ORDINANCE

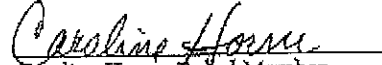
We hereby certify that the foregoing Election Ordinance was duly amended and enacted by the Election Board of the Hoopa Valley Tribe of California at a meeting held at Hoopa, California on this 10th day of September 2014. With 5 members present and the vote being 4 For and 0 Against said amendments and enactment. The Chairperson not voting.

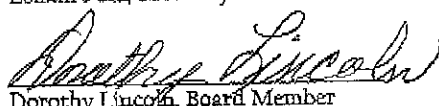
ATTESTS:


Kristen Raymond, Chairperson


Joseph Orozco, Vice-Chairperson


Leilani Pole, Secretary


Caroline Horne, Board Member


Dorothy Lincoln, Board Member